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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,778	07/01/2004	Petr Kvita	HP/5-22603/A/PCT	8508
324 7590 03/04/2008 JoAnn Villamizar Ciba Corporation/Patent Department 540 White Plains Road P.O. Box 2005 Tarrytown, NY 10591			EXAMINER KHAN, AMINA S	
			ART UNIT 1796	PAPER NUMBER
			MAIL DATE 03/04/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/500,778

Applicant(s)

KVITA ET AL.

Examiner

AMINA KHAN

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,7,11-14 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7,11-14 and 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to applicant's amendments filed on November 23, 2007.
2. Claims 1,2,4,5,7,11-14 and 17-19 are pending. Claims 3,6,8-10,15 and 16 have been cancelled. Claims 1,14,17,18 and 19 have been amended.
3. The rejection of claims 1,2,4,5,7,8,11,13 stand 14 under 35 U.S.C. 103(a) as being unpatentable over Kuzmenka et al. (US 6,627,591) in view of Tittmann et al. (US 5,705,605) is withdrawn.
4. The rejection of claims 1,2,4,5,7-9,11,13,14,17 and 18 under 35 U.S.C. 103(a) as being unpatentable over Kuzmenka et al. (US 6,627,591) is withdrawn.
5. The rejection of claims 8-10 under 35 U.S.C. 103(a) as being unpatentable over Bettiol et al. (US 6,187,740) in view of Kuzmenka et al. (US 6,627,591) is withdrawn.
6. The rejection of claims 15 and 16 under 35 U.S.C. 103(a) as being unpatentable over Bettiol et al. (US 6,187,740) in view of Kuzmenka et al. (US 6,627,591) and further in view of Panandiker et al. (US 6,156,722) is withdrawn.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1,2,4,5,7,11,13,14 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bettiol et al. (US 6,187,740) in view of Kuzmenka et al. (US 6,627,591).

Bettiol teaches laundering fabrics for the benefit of inhibiting dye transfer (column 8, lines 1-5) with granular compositions comprising 1-25% hydrogen peroxide ore percarbonate (column 4, lines 55-65), carbonates, bicarbonates or polycarboxylates (column 6, lines 50-60), 0.1-60% surfactants of alkyl benzyl sulfonates or condensation products of alcohols and ethylene oxides (column 8, lines 35-68; column 9, lines 1-15; column 10, lines 55-65), 0.2-25% fabric softening agents (column 15, lines 50-56), 5-80% builders such as zeolites or citric acid (column 23, lines 30-65), perfumes (column 25, lines 10-15), 0.5-10% carboxy or hydroxymethylcelluloses (column 25, lines 25-40),

Art Unit: 1796

and 0.001-10% dye transfer inhibitors such as copolymers of N-vinylpyrrolidone (column 27, lines 50-68; column 28, lines 1-10).

Bettliol does not teach the instantly claimed dye fixatives.

Kuzmenka et al. teach granular detergents comprising up to 90% Tinofix CL, Sandofix SWE (column 3, lines 25-60) and copolymer of N-vinylpyrrolidone and zeolites (column 4, lines 1-20; example 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods and compositions of Bettliol by substituting Tinofix CL for the copolymer of N-vinylpyrrolidone because Kuzmenka teaches the functional equivalence of these dye fixatives in preventing dye transfer in detergent compositions. The substitution of art recognized equivalents only requires routine skill in the art. Furthermore, it would have been obvious to combined Tinofix CL with zeolites because Kuzmenka teach this combination as effective in providing fabrics with dye transfer inhibition.

Regarding the methods of production of Tinofix CL, they are just product by process. Any difference imparted by the product by process limitations would have been obvious to one having ordinary skill in the art at the time the invention was made because where the examiner has found a substantially similar product as in the applied prior art, the burden of proof is shifted to the applicant to establish that their product is patentably distinct, not the examiner to show the same process of making, see *In re Brown*, 173 USPQ 685 and *In re Fessmann*, 180 USPQ 324. The burden is on applicants to show product differences in product by process claims, see *In re Thorpe*,

Art Unit: 1796

227 USPQ 964 (Fed. Cir. 1985); *In re Best*, 195 USPQ 430 (CCPA 1977); *In re Fessman*, 180 USPQ 324 (CCPA 1974); *In re Brown*, 173 USPQ 685 (CCPA 1972).

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bettiol et al. (US 6,187,740) in view of Kuzmenka et al. (US 6,627,591) and further in view of Panandiker et al. (US 6,156,722).

Bettiol and Kuzmenka are relied upon as set forth in paragraph 8.

Bettiol and Kuzmenka are silent as to the methods of production of the granular detergent composition.

Panandiker et al. further teaches the compositions are granular and made by combining base ingredients and spray drying to a low level of residual moisture then admixing remaining ingredients with the spray dried granules in a rotary mixing drum, and spraying on liquid ingredients to form finished composition (column 9, lines 35-45). Panandiker et al. further teaches that dye fixatives impart fabric benefits to fabrics and textile laundered in washing solutions (abstract) and improve washfastness of certain dyes (column 1, lines 30-35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods and compositions taught by Bettiol and Kuzmenka by producing the granular detergents as taught by Panandiker et al. because Panandiker teaches granular detergent compositions are conventionally made in this manner. One of ordinary skill in the art would have been motivated to combine the teachings of the references absent unexpected results.

Response to Arguments

10. Applicant's arguments filed regarding Bettiol in view of Kuzumenka have been fully considered but they are not persuasive.

The applicant argues unexpected results occur in the examples 1 and 9 of the instant application. The examiner asserts that the unexpected results demonstrated from a combination of 3 specific compounds Tinofix CL, maltodextrin and zeolites are not commensurate in scope with the instant claims which are directed to numerous dye fixatives, carriers and binders. Bettiol clearly teaches combining dye fixatives, carriers and binders in a single composition. Kuzumenka is simply relied upon to demonstrate the functional equivalence of the dye fixatives Tinofix CL and the copolymer of N-vinylpyrrolidone. Furthermore, Kuzumenka teach it is conventional and beneficial to combine the Tinofix CL with zeolites (see Example 7). No data has been shown to demonstrate if the unexpected results are due to the combination of fixative and carrier duo or due to the combination of fixative, carrier and binder. The rejections are maintained.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 1796

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amina Khan whose telephone number is (571) 272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1796

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M. Douyon/
Primary Examiner
Art Unit 1796

/Amina S. Khan/

February 25, 2008